

**PORTFOLIO COMMITTEE :
INFRASTRUCTURE & PLANNING**

Chairperson :

**Executive Deputy Mayor,
Cllr R Smith**

Committee Members :

**Cllrs K Brice, D Botha
M Dyani & JJ Januarie**

**PORTEFEULJEKOMITEE :
INFRASTRUKTUUR & BEPLANNING**

Voorsitter :

**Uitvoerende Onderburgemeester
Rdl R Smith**

Komiteelede :

**Rdle K Brice, D Botha,
M Dyani & JJ Januarie**

INFRASTRUCTURE & PLANNING PORTFOLIO COMMITTEE
INFRASTRUKTUUR & BEPLANNING PORTEFEULJEKOMITEE

17 NOVEMBER 2015

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17 November 2015
(Also the agenda for the Mayoral Committee Meeting : 25 November 2015)**

**1.
TOWN- & SPATIAL PLANNING REPORT WITH REGARD TO APPLICATIONS
CONSIDERED IN TERMS OF DELEGATED AUTHORITY : SEPTEMBER AND
OCTOBER 2015**

15/3/11

R van Antwerp

(028) 313 8039

Hermanus Administration

16 October 2015

1. Executive Summary

To report on applications disposed of by the Senior Manager : Town- & Spatial Planning during the period from 23 September 2015 – 16 October 2015.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town- and Spatial Planning

3. Compliance with Strategic Priority

Promotion of tourism, economic and social development

4. Delegated Authority

Executive Mayor

5. Legal Requirements

Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)

6. Background/Discussion/Evaluation/Conclusion

Background

This item serves to inform Council of matters that were disposed of by the Senior Manager : Town- & Spatial Planning.

7. Financial Implications

None

8. Staff Implications

None

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9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

To view, annexures are available at the office of the Senior Manager : Town- and Spatial Planning.

RECOMMENDATION:

that **cognisance be taken** of the town planning applications disposed of by the Senior Manager : Town- & Spatial Planning in terms of delegated authority for the period 23 September 2015 – 16 October 2015:

1.	Erf 2566, Hermanus	28 September 2015
2.	Erf 2150, Hermanus	29 September 2015
3.	Remainder of Erf 224, Stanford	2 October 2015
4.	Erf 8659, Kleinmond	2 September 2015
5.	Erf 1763, Vermont	6 October 2015
6.	Erf 2867, Onrus River	6 October 2015
7.	Erven 1251 and 1252, Stanford	7 October 2015
8.	Portion 64 of the farm Baardscheerdersbosch No. 213	7 October 2015
9.	Erf 6028, Hermanus	16 October 2015
10.	Erven 529 and 531, Hermanus	16 October 2015

RESPONSIBLE OFFICIAL :

R VAN ANTWERP

TARGET DATE FOR IMPLEMENTATION :

9 DECEMBER 2015

TARGET DATE TO INFORM APPLICANT :

N/A

TARGET DATE TO INFORM OBJECTOR :

N/A

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**1.
TOWN- & SPATIAL PLANNING REPORT WITH REGARD TO APPLICATIONS
CONSIDERED IN TERMS OF DELEGATED AUTHORITY : SEPTEMBER AND
OCTOBER 2015**

**15/3/11
R van Antwerp
16 October 2015**

(028) 313 8039

Hermanus Administration

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
17 NOVEMBER 2015, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :	R VAN ANTWERP
TARGET DATE FOR IMPLEMENTATION :	9 DECEMBER 2015
TARGET DATE TO INFORM APPLICANT :	N/A
TARGET DATE TO INFORM OBJECTOR :	N/A

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1. **ERF 2566, 129 ELEVENTH STREET, HERMANUS (VOËLKLIP), OVERSTRAND MUNICIPAL AREA : PROPOSED DEPARTURE: MESSRS ANDREW GREEFF ARCHITECTS ON BEHALF OF "DIE TRUSTEES INDERTYD VAN DIE ZYLTRUST"**

2566 HVK (2829)

P Roux

(028) 313 8900

Hermanus Administration

9 September 2015

Executive Summary

To consider an application received on 23 February 2015 from Messrs Andrew Greeff Architects on behalf of "Die Trustees indertyd van die Zyltrust" the property owners of Erf 2566, Hermanus (Voëlklip) for a departure from the relevant Scheme Regulations in order to relax the street building lines from 4m to 1,6m and 4m to 2,8m respectively and the lateral building line from 2m to 0m in order to accommodate reroofing of the existing garage and to erect a new dwelling.

RESOLVED :

1. that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for a departure from the relevant Scheme Regulations on Erf 2566, Hermanus (Voëlklip), in order to relax the street building lines from 4m to 1,6m and 4m to 2,8m respectively and the lateral building line from 2m to 0m in order to accommodate reroofing of the existing garage and to erect a new dwelling, **be approved**, subject to the following conditions:
 - (a) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (b) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (c) that this approval is only for the relaxation of building lines indicated on Drawing No. DRG No. 1.1 – 3.2 dated 23 February 2015 submitted with the application;
 - (d) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage.
 - (e) that the non-trafficable area on the roof can under no circumstance be used or become trafficable;

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- (f) that if the third storey balcony were to be enclosed in the future a formal departure application will be necessary;
 - (g) that all parking bays must be provided on the subject property, and
 - (h) that all vehicular access to the property must be obtained from Eleventh Street.
2. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government: Municipal Systems Act No. 32 of 2000 with regard to the above decision.

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2. ERF 2150, 63 SIXTH STREET, HERMANUS (VOËLKLIP), OVERSTRAND MUNICIPAL AREA : PROPOSED DEPARTURE : D SHORT ON BEHALF OF THE TRUSTEES FOR THE TIME BEING OF THE SHORT FAMILY TRUST

2150 HVK (2860)

P Roux

(028) 313 8900

Hermanus Administration

22 September 2015

Executive Summary

An application has been received on 16 March 2015 from D Short on behalf of The Trustees for the time being of the Short Family Trust, on Erf 2150, Hermanus (Voëlklip) for a departure from the relevant Scheme Regulations in order to relax the lateral building line from 2m to 1,56m to accommodate a proposed new bedroom with en-suite bathroom on top of the garage.

RESOLVED :

1. that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for a departure from the relevant Scheme Regulations on Erf 2150, Hermanus (Voëlklip), in order to relax the lateral building line from 2m to 1,56m to accommodate a proposed new bedroom with en-suite bathroom on top of the garage, **be approved**, subject to the following conditions:
 - (a) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (b) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (c) that this approval is only for the relaxation of building lines indicated on Plan No. 1913 dated 09/03/15, which was submitted with the application;
 - (d) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage, and
 - (e) that the conditions by the Engineering Department (attached as Annexure D), be complied with.
2. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

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3. REMAINDER ERF 224, CORNER OF BEZUIDENHOUT- & ADDERLEY STREETS, STANFORD, OVERSTRAND MUNICIPAL AREA : PROPOSED DEPARTURE : PA & JL DEVINE

Rem 224 SSS (3047)

P Roux

(028) 313 8900

Hermanus Administration

29 September 2015

Executive Summary

An application has been received on 16 September 2015 from PA and JL Devine, the property owners of Erf 224, Stanford, for a departure from the relevant Scheme Regulations in order to relax the eastern street building line from 4m to 0m to accommodate a historical conversion of the garage into a second dwelling.

RESOLVED :

1. that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for a departure from the relevant Scheme Regulations on Remainder Erf 224, Stanford to relax the eastern street building line from 4m to 0m to accommodate a historical conversion of the garage into a second dwelling, **be approved**, subject to the following conditions:
 - (a) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (b) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (c) that this approval is only for the relaxation of building lines indicated on Plan No. 15/14/1-2 dated 27 May 2015, which was submitted with the application;
 - (d) that no windows can open over the street boundary line;
 - (e) that the applicant be refunded the amount of R440.00 surplus which was paid as part of the application fee, and
 - (f) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage.

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2. that the applicants be notified of their right of appeal in terms of the Local Government : Municipal Systems Act, 2000 (Section 62) with regard to the above conditions of approval.

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4. **ERF 8659, C/O JOHN DANEEL & JS MARAIS STREET, KLEINMOND, OVERSTRAND MUNICIPAL AREA : PROPOSED AMENDMENT OF THE APPROVED SITE DEVELOPMENT PLAN : MJ BECK (ON BEHALF OF THE OLD APOSTOLIC CHURCH)**

8659 KKM

H van der Stoep

(028) 313 8900

Hermanus Administration

31 August 2015

Executive Summary

An application has been received from The Old Apostolic Church for the amendment of the site development plan to erect a new lobby and make changes to the existing ablution facilities.

RESOLVED :

1. that in terms of Section 42 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application on Erf 8659, Kleinmond for the proposed amendment of the approved site development plan in order to accommodate the proposed alterations and additions to the existing buildings on the property concerned, **be approved**, subject to the following conditions:
 - (a) that development be restricted to the Plan Numbers K-P01 and K-P02, dated 5 May 2015, as submitted with the application;
 - (b) that all conditions imposed in the Services Report (attached hereto), be complied with;
 - (c) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (d) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above conditions of approval.

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5. ERF 1763, 6 INDIGO AVENUE, VERMONT, OVERSTRAND MUNICIPAL AREA : PROPOSED DEPARTURE : LP & AS FURSTENBERG

1763 HVM (2941)

H Olivier

(028) 313 8900

Hermanus Administration

29 September 2015

Executive Summary

An application has been received on 11 June 2015 from LP and AS Furstenberg on Erf 1763, Vermont for a departure from the relevant Scheme Regulations to relax the street building line from 4m to 2,7m to accommodate an existing garage and deck above the garage.

RESOLVED :

1. that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for a departure from the relevant Scheme Regulations on Erf 1763, Vermont, to relax the street building line from 4m to 2,7m to accommodate an existing garage type structure and a deck, **be approved**, subject to the following conditions:
 - (a) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (b) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (c) that this approval is only for the relaxation of building lines indicated on Plan No. A.01.3479 dated 11 June 2015, which was submitted with the application, and
 - (d) that no garage door may be fitted to the garage type structure which encroach the street building line;
 - (e) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage, and
 - (f) that all the conditions in the Services Report (attached as Annexure D) be complied with.
2. that the applicants be notified of their right of appeal in terms of the Local Government : Municipal Systems Act, 2000 (Section 62) with regard to the above conditions of approval.

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6. ERF 2867, 9 ERICA STREET, ONRUS RIVER, OVERSTRAND MUNICIPAL AREA : PROPOSED DEPARTURE : SMART SOLUTION ARCHITECTURE ON BEHALF OF DE ROUX

2867 HON (2930)

H Olivier

(028) 313 8900

Hermanus Administration

02 October 2015

Executive Summary

An application has been received on 17 October 2014 from Smart Solution Architecture on behalf of the property owner, DE Roux, on Erf 2867, Onrus River for a departure from the relevant Scheme Regulations in order to relax the lateral building lines from 2m to 1,160m and from 2,0m to 0m respectively to legalize existing additions to the property concerned.

RESOLVED :

1. that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for a departure from the relevant Scheme Regulations on Erf 2867, Onrus River, in order to relax the lateral building lines from 2m to 1,160m and from 2,0m to 0m respectively to legalize existing additions to the property concerned, **be approved**, subject to the following conditions:
 - (a) that this approval does not absolve the applicant from compliance with any other relevant legislation;
 - (b) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
 - (c) that all the conditions in the Service Report (attached as Annexure D), be complied with;
 - (d) that all the conditions imposed by Telkom (attached as Annexure E), be complied with;
 - (e) that this approval is only for the relaxation of building lines indicated on Plan Numbers I0183/03, I018307 and I0183/08 dated 1 June 2015, submitted with the application, and
 - (f) that building plans be submitted to the Building Department for approval, and that all conditions of the Building – and the Fire Department be complied with at that stage.

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**7. ERVEN 1251 & 1252, RIVERSIDE LANE, STANFORD, OVERSTRAND
MUNICIPAL AREA : PROPOSED CONSOLIDATION : MESSRS PLAN
ACTIVE ON BEHALF OF MESSRS ROA INV (PTY) LTD**

1251 & 1252 SSS (2933)

P Roux (028) 313 8900

Hermanus Administration

30 September 2015

Executive Summary

An application has been received on 12 May 2015 from Messrs Plan Active Town and Regional Planners on behalf of the Messrs ROA Inv (Pty) Ltd, for the consolidation of Erven 1251 & 1252, Stanford.

RESOLVED :

1. that in terms of Section 2.3 of the Scheme Regulations made in terms of Section 9(2) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), the application for the consolidation of Erven 1251 & 1252, Stanford, **be approved**, subject to the following conditions:
 - (a) that this approval only has reference to the proposed SG Diagram No. Comp.AINX-1442(M4307), as submitted with the application;
 - (b) that all the conditions in the comment from Electro Technical Services (attached as Annexure D), be complied with;
 - (c) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (d) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
2. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above conditions of approval.

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**8. PORTION 64 OF THE FARM BAARDSCHEERDERS BOSCH NO. 213,
BREDASDORP DIVISION, OVERSTRAND MUNICIPAL AREA : PROPOSED
CONSENT USE : MESSRS WRAP ON BEHALF OF GJ HASTIE**

**Farm 64/213 (2774)
SW van der Merwe
28 September 2015**

(028) 313 8900

Hermanus Administration

Executive Summary

To consider an application for consent use to conduct a tourist facility (restaurant) submitted by Messrs Wrap on behalf of GJ Hastie the registered owner of Portion 64 of the Farm Baardscheerders Bosch No. 213, Bredasdorp Division.

RESOLVED :

1. that the application for consent use to conduct a tourist facility (restaurant) on Portion 64 of the Farm Baardscheerders Bosch No. 213, Bredasdorp Division, in terms of the provisions of Section 2.2 of the Overstrand Zoning Scheme Regulations, **be approved**;
2. that the approval be subject to the following conditions:
 - (a) that the development rules applicable to Agricultural Zone I be complied with;
 - (b) that building plans be submitted to the Building Department prior to the commencement of the building work for the proposed restaurant;
 - (c) that a minimum of 6 onsite parking bays be provided for use by visitors of the restaurant and that the parking bays be permanently demarcated and provided of a hard surface;
 - (d) that the restaurant be restricted to a maximum of 20 seats;
 - (e) that any additional conditions that the Council may deem fit be imposed and be implemented by the applicant, should a public disturbance or nuisance be created;
 - (f) the restaurant may not be extended without the prior written approval of the Municipality;

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- (g) that commercial rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (h) that the necessary certificates of acceptability with regard to the preparation of food, as well as a certificate of the Chief: Fire Services must be obtained prior to the operation of the restaurant;
 - (i) that the restaurant may not be operated without a valid Business License;
 - (j) that the serving of liquor is subject to a valid Liquor Licence;
 - (k) that a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises, and
 - (l) that this approval does not absolve the applicant from compliance with any other relevant legislation;
3. that the applicant be notified of its right of appeal in terms of the provisions of Section 62 of the Municipal Systems Act, 2000 (Act 32 of 2000) with regard to the above decision and conditions of approval.

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9. ERF 6028, 57 MAIN ROAD, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSENT USE : MESSRS COALITION TRADING 566 CC

6028 HNC (2928)

H van der Stoep

12 October 2015

(028) 313 8900

Hermanus Administration

Executive Summary

An application has been received from JK & CP Jonsson on behalf of Messrs Coalition Trading 566 CC on Erf 6028, 57 Main Road, Hermanus for a consent use in order to continue operating a five (5) bedroom guesthouse on the property concerned.

RESOLVED:

1. that in terms of Section 2.2 of the Section 9 Zoning Scheme Regulations of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for a consent use on Erf 6028, Hermanus, to continue operating a five (5) bedroom guesthouse on the property concerned, **be approved**, subject to the following conditions:
 - (a) that the facility be utilized as a **guesthouse only**;
 - (b) that a maximum of five (5) bedrooms to be let, be permitted;
 - (c) that the owner/manager resides on the premises;
 - (d) that the guesthouse is utilized as such; no self-catering will be permitted;
 - (e) that no facilities (bar/restaurant or any other) be provided for non-residents of the accommodation establishment and that these facilities only be used by bona-fide guests of the establishment;
 - (f) that the selling or serving of liquor on the premises will be subject to the applicant obtaining the necessary Liquor Licence;
 - (g) that a minimum of one (1) permanently demarcated parking bay per guest room (as indicated on the Site Plan submitted) and two (2) for the owner/manager be provided within the erf boundaries, subject to the approval of the Senior Manager: Town- and Spatial Planning;

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- (h) that commercial rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (i) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
 - (j) that a single non-illuminated sign that complies with the Municipal By-Law on signage, may be displayed on the premises;
 - (k) that the owner and his successors in title must take all necessary and reasonable practical measures to prevent the occurrences of any private nuisance, which through an act or omission materially interferes with the comfort, peace and quiet of the surrounding area and should the owner or his successors in title failing to comply with such a condition, they will make themselves liable to civil and criminal action;
 - (l) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
 - (m) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation,
 - (n) that should any building alterations be required, building plans should be submitted to the Building Department for approval;
 - (o) that the requirements of National Building Regulations – SANS 10400T : 2011 and the Overstrand Community Fire Safety By-Law PN 6454 of 2007 be complied with - particular attention be paid to Section 4.58 of SANS 10400T:2011;
 - (p) that all the conditions in the Services Report (attached as Annexure D), be complied with, and
 - (q) that the covered passage to the guests rooms be enclosed.
2. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above conditions of approval.

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**10. ERVEN 529 & 531, MARINE DRIVE, HERMANUS, OVERSTRAND
MUNICIPAL AREA : PROPOSED CONSENT USE : MESSRS PLANACTIVE
ON BEHALF OF THE ANTOBEN TRUST & HERMANUS GUESTHOUSE
TRUST (W STEYN)**

529 & 531 HWC (2733)

H van der Stoep

18 September 2015

(028) 313 8900

Hermanus Administration

Executive Summary

An application has been received on 14 October 2014 from Messrs Plan Active on behalf of the Antoben Trust and Hermanus Guesthouse Trust (W Steyn) on Erven 529 and 531, Hermanus in order to establish a guesthouse on the property concerned.

An application was also received for the registration of an access servitude area over a portion of Erf 531 Hermanus.

RESOLVED :

1. that in terms of Section 2.2 of the Section 9 Zoning Scheme Regulations of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for a consent use on Erf 529, Hermanus in order to establish a five (5) bedroom guesthouse on the property concerned and registration of a servitude over Erf 531, Hermanus in favour of Erf 529, Hermanus, **be approved**, subject to the following conditions:
 - (a) that the facility be utilized as a **guesthouse only**;
 - (b) that a maximum of five (5) bedrooms to be let, be permitted;
 - (c) that the owner/manager resides on the premises;
 - (d) that the guesthouse is utilized as such; no self-catering will be permitted;
 - (e) that no facilities (bar/restaurant or any other) be provided for non-residents of the accommodation establishment and that these facilities only be used by bona-fide guests of the establishment;
 - (f) that the selling or serving of liquor on the premises will be subject to the applicant obtaining the necessary liquor licence;

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- (g) that a minimum of one (1) permanently demarcated parking bay per guest room (as indicated on the Site Plan submitted [Plan No. AR.MS.100 dated 1 October 2015]) and two (2) for the owner/manager be provided within the erf boundaries, subject to the approval of the Senior Manager: Town- and Spatial Planning;
- (h) that commercial rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
- (i) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
- (j) that a single non-illuminated sign that complies with the Municipal By-Law on signage, may be displayed on the premises;
- (k) that the owner and his successors in title must take all necessary and reasonable practical measures to prevent the occurrences of any private nuisance, which through an act or omission materially interferes with the comfort, peace and quiet of the surrounding area and should the owner or his successors in title failing to comply with such a condition, they will make themselves liable to civil and criminal action;
- (l) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
- (m) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
- (n) that the approval be subject to compliance with National Building Regulations : SANS 10 0 :A – Classification – Hospitality H5 SANS 10400 T : 2011 – Fire Safety all relevant Sections especially Section 4.58;
- (o) that all the conditions in the Services Report (attached as Annexure D), be complied with;
- (p) that Erven 529, 530 and 531 be notorially tied;
- (q) that an access servitude road be registered against the Title Deed of Erf 531, Hermanus for access purposes to Erf 529, Hermanus, and

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Portfolio Committee : Infrastructure & Planning
17 November 2015
(Also the agenda for the Mayoral Committee Meeting : 25 November 2015)**

- (r) that the development must comply with residential parameters as per the Zoning Scheme in terms of building lines and height restriction.
3. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.